

**ORDINANCE NO. O-2009-19**

BE IT ENACTED BY THE QUORUM COURT OF THE COUNTY OF BENTON, STATE OF ARKANSAS; AN ORDINANCE TO BE ENTITLED:

**AN ORDINANCE TO ALLOW BURNING OF CERTAIN  
STRUCTURES TO PREVENT OR ELIMINATE FIRE  
HAZARDS**

WHEREAS, the rural part of Benton County has numerous structures which, because of age and lack of maintenance, are in a dilapidated condition; and,

WHEREAS, many such structures represent a current or future fire hazard and as such, a hazard to the health of the residents of Benton County;

NOW THEREFORE BE IT ORDAINED:

**ARTICLE 1.** That the purpose of this ordinance is to provide a process for citizens to obtain authorization and carry out burning of dilapidated structures on their own property, which are or will become fire hazards, such as, but not limited to, barns, sheds and chicken houses.

**ARTICLE 2.** That any person desiring to burn a structure on their property for the reason that it is or will become a fire hazard, which structure is not located in an incorporated area of Benton County, shall apply for a permit from the Fire Marshal to destroy such structure by burning it. The permit application shall include the name of the owner of the property and any person having an interest in the structure proposed to be burned. The permit application shall also include a description of and the address of the structure proposed to be burned.

**ARTICLE 3.** That upon an application being made, the Fire Marshal shall have the property inspected, including having it inspected by someone certified under Regulation 21 of the regulations of the Arkansas Pollution Control & Ecology Commission related to asbestos. Such inspection shall be made 1) to determine whether the structure proposed to be burned and the surrounding property is a current fire hazard or likely to become one, 2) to determine the presence of hazardous materials, including specifically but not limited to asbestos, and 3) to determine if other circumstances exist regarding the structure which otherwise makes it unsuitable due to health reasons for destruction by burning. In the event the County does not have an employee qualified to make the inspection related to asbestos, any cost of such inspection shall be paid by the Applicant. In the event that one or more conditions exist which would prevent a permit being issued which can be corrected, the Fire Marshal or his designee shall notify the applicant of the problem and allow him to correct it and shall thereafter inspect the structure and surrounding area as described above to see if the issue has been corrected. In no case shall a permit be issued if the structure contains asbestos.

**ARTICLE 4.** Upon the approval of the Fire Marshal, or his designee, and the payment of a application fee in the amount of \$25.00 by the applicant, the applicant will be issued a permit to allow the structure to be burned in compliance with the other provisions of this ordinance. A copy of the approved permit will be immediately sent by the Fire Marshal by regular mail to the Arkansas Department of Environmental Quality – Air Division, 5301 Northshore Drive, North Little Rock AR 72118-5317 (or such other future address of the division or its successor).

**ARTICLE 5.** That after receiving the permit, the applicant may set fire to the structure approved for burning beginning no earlier than 10 days after and no later than 60 days after the permit being issued. Prior to setting fire to the structure approved for burning, the applicant must contact Central Communications for Benton County and notify them of the plan for burning the structure and obtain approval from Central Communications. Central Communications shall give approval unless weather conditions in the county dictate that burning would not be appropriate at that time. The Applicant shall follow any instructions given by Central Communications, including specifically but not limited to any related to attending the fire and having appropriate fire control measures in place. In the event that permission to set fire to the structure approved for burning is not given by Central Communications, they shall communicate to the applicant the reason that such permission is denied. A permit may be extended by the Fire Marshal for up to sixty days upon request by the Applicant.

**ARTICLE 6.** That after receiving notice that the structure is burned, or after the expiration of the 60 day permit period (or the extended permit period) in the event that no notice is received, the Fire Marshal or his designee shall return to the site of the structure to inspect the area.

**ARTICLE 7.** That any person desiring to burn a structure on his property for any reason other than that the structure is a current or future fire hazard shall first obtain permission for such burning from the Arkansas Department of Environmental Quality (or its successor agency) and thereafter shall otherwise follow the requirements of this ordinance.

**ARTICLE 8.** The burning of a structure in violation of this provision shall subject the violator to a fine of up to Five Hundred Dollars (\$500.00). A violator of this subsection who has also violated State law shall be subject to prosecution for the violation of State law as well at the discretion of the Prosecuting Attorney, or appropriate administrative action by the Arkansas Department of Environmental Quality (or its successor agency).

ADOPTED this 23<sup>rd</sup> day of July, 2009.

APPROVED:

/S/ David A. Bisbee  
DAVID A. BISBEE, COUNTY JUDGE  
DATE SIGNED: July 24, 2009

ATTEST:

/S/ Tena O' Brien  
TENA O' BRIEN, COUNTY CLERK  
SPONSOR: JP Jim Wozniak  
DATE ADOPTED: July 23, 2009  
Votes For: 12 Votes Against:       
Abstain:      Present:      Absent 1

References: ACA 8-4-305(7), ADEQ Regs. 18.603 (G), 21 6.1-2